

**4-990. Order appointing kinship guardian without consent of both respondents.**

[Section 40-10B-8 NMSA 1978]

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_  
\_\_\_\_\_ JUDICIAL DISTRICT

\_\_\_\_\_  
[Petitioner] [Petitioners]

v. \_\_\_\_\_

No. \_\_\_\_\_

\_\_\_\_\_  
Respondent

IN THE MATTER OF THE GUARDIANSHIP

OF \_\_\_\_\_

**ORDER APPOINTING KINSHIP GUARDIAN  
WITHOUT CONSENT OF BOTH RESPONDENTS<sup>1</sup>**

The court has reviewed the sworn petition for appointment of \_\_\_\_\_  
[and \_\_\_\_\_] as [guardian] [guardians] of above minor child.

The court having considered the petition, **FINDS** that the court has jurisdiction and that:

1. The [petitioner is] [petitioners are] \_\_\_\_\_ (*state the relationship*) of the above named child.
2. The child has resided with the petitioner without a parent for ninety (90) or more days immediately preceding the date the petition was filed.
3. (*Check and complete applicable alternative.*)
  - ☐ \_\_\_\_\_ (*name of respondent*) has been served with a summons and Petition for Order Appointing Kinship Guardian.<sup>2</sup>
  - ☐ \_\_\_\_\_ (*name of mother*) has been served by publishing notice of this proceeding as ordered by the court.<sup>3</sup>
  - ☐ The child's mother has not appeared in this proceeding and has not signed a Parental Consent to Appointment of Guardian and Waiver of Service of Process.
  - ☐ The child's mother has consented to the appointment of [a guardian] [guardians] for her [child] [children] and the consent is filed with the court.
4. (*Check and complete applicable alternative.*)
  - ☐ \_\_\_\_\_ (*name of respondent*) has been served with a summons and Petition for Order Appointing Kinship Guardian.<sup>2</sup>
  - ☐ \_\_\_\_\_ (*name of father*) has been served by publishing notice of this proceeding as ordered by the court.<sup>3</sup>
  - ☐ The child's father has not appeared in this proceeding and has not signed a Parental Consent to Appointment of Guardian and Waiver of Service of Process.

- ☐ The child's father has consented to the appointment of [a guardian] [guardians] for his [child] [children] and the consent is filed with the court.
- ☐ The child's father is unknown.
5. The [petitioner] [petitioners] shall be appointed as the kinship [guardian] [guardians] of the child.  
(*Check and complete applicable alternative.*)
6. ☐ The [petitioner has] [petitioners have] not requested child support.
- ☐ The [petitioner] [petitioners] and \_\_\_\_\_ (*name of respondent*) have agreed to child support as follows:
- \_\_\_\_\_.
- ☐ The [petitioner] [petitioners] and \_\_\_\_\_ (*name of respondent*) have agreed to visitation as follows:
- \_\_\_\_\_.
- \_\_\_\_\_.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
District court judge

USE NOTE

1. Unless the parent's parental rights have been terminated or the parent is deceased, this form is to be used if a respondent has not appeared in the proceedings and has not signed a Parental Consent to Appointment of Guardian and Waiver of Service of Process. Use Civil Form 4-986 NMRA if both parents have signed a Parental Consent to Appointment of Guardian and Waiver of Service of Process.

2. See Rule 1-004 NMRA for personal service of process. See also Civil Form 4-982 NMRA for the form of summons used in kinship guardianship proceedings.

3. If the respondent has not been personally served with process, the court does not need to determine paternity of the child prior to signing this order.

4. See Rule 1-004 NMRA and Civil Forms 4-209 and 4-209A for service by publication.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005.]